THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.16153 OF 2002

Disposed of on : 10-08-2005.

Between:

Enarathi Obulamma and others …..petitioners

And

Govt. of A.P. and others…….respondents.

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.16153 OF 2002

O R D E R :

1. This Writ Petition has been filed by the petitioners with a prayer to issue a Writ of

Mandamus declaring the action of the respondents in denying the payment of compensation to the petitioners by not passing an Award under section 11 of L.A.Act instead releasing exgratia to the petitioners in respect of house properties situated in Reach-III Harizanawada (V), Kommuru village, Nandalur Mandal, Kadapa District as illegal, arbitrary and violative of Article 14 of the Constitution of India.

2. This is second round of litigation. In the first round of litigation, the petitioners filed W.P.No.3167 of 2000. The said writ petition came to be disposed of on 29-06-2000. The operative portion of the order reads as under:

> " Learned counsel for the petitioners Ms.R.Annapurna gracefully submits that she is willing to accept the notice to be issued by the first respondent-Government on behalf of the petitioners. Therefore, interest of justice would be met by directing the first respondent to serve notice upon the learned counsel for the petitioners Ms.R.Annapurna under registered post acknowledgement due. The petitioners are entitled to put forth their objections/representations in the matter. All such objections shall have to be taken into consideration by the Government before deciding the question as to whether the notification could at all be withdrawn by the Government at this stage. The first respondent-Government shall provide an opportunity of personal bearing to the petitioners herein through their counsel Ms.R.Annapurna. It is needless to direct the first respondent-Government to take an appropriate decision in the matter in accordance with law within a period of three months from the date of receipt of a copy of this order and communicate its decision to the petitioners through the learned counsel for the petitioners."

One of the issues raised in the writ petition was with regard to the payment of compensation to the structures put up in the village sites under L.A.Act. It was clarified in the said writ petition as follows:

> " I find it difficult to accede to the submissions made by the learned Government Pleader that the petitioners are not entitled for any compensation in respect of the structures raised by them, since they are located in the village site poramboke. Land may belong to the Government, but admittedly, the petitioners have raised the structures in that land. It is entirely a different matter altogether as to what amount of compensation is to be paid to the petitioners in respect of the structures, if the same get

> submerged in the project. But I find it difficult to accede to the submission made by the learned Government Pleader that the petitioners are not entitled for any compensation, even if the structures raised at is submerged in the project. At any rate, the quantum of compensation is not the subject matter of this writ petition. All that the learned counsel for the petitioners contends and in my considered opinion rightly so, that an award under Sec.11 has to be passed by the Special Deputy Collector in accordance with the provisions under the Land Acquisition Act pursuant to the notification issued and published under Sec.4(1) of the Act."

3. The dust and din of the dispute with regard to payment of compensation to the structures has been set at rest with the judgment of this court in W.P.No.3167 of 2000. The present writ petition has been filed by the petitioners when the Government refused to pay the compensation for the structures raised by them under the provisions of L.A.Act. Initially the present writ petition was disposed of observing that the petitioners are entitled to compensation under the provisions of L.A.Act in terms of the judgment in LAND ACQUISITION OFFICER-CUM-REVENUE DIVISIONAL OFFICER, CHEVELLA DIVISION & OTHERS v. MEKALA PANDU & OTHERS within a period of three months from the date of receipt of copy of the order after deducting exgratia. The respondents in the writ petition carried the matter in an appeal being W.A.No.886 of 2005. The said appeal came to be allowed and the matter remanded back to this court for disposal afresh. The reason for the remand is reliance on the first cited judgment which is not applicable to the facts of the case.

4. Heard Sri.V.Venkataramana, learned senior counsel appearing for the petitioners and learned Government Pleader for Land Acquisition appearing for the respondents.

5. Learned senior counsel appearing for the petitioners submits that the Government itself issued memo dated 14.6.2002 with regard to the payment of compensation to the structures raised by persons on a government site and therefore there is no justification for the respondents in not paying the compensation for the structures raised by the petitioners on the Government site. The fact of issuing of this memo is not disputed by the learned Government Pleader for Land Acquisition appearing for the respondents. Such is the case, the petitioners are entitled to claim compensation under Land Acquisition Act for the super structures made by them on the

Government site. If any exgratia has been made in pursuance of the contempt proceedings initiated by the petitioners in implementation of the orders passed in first round of litigation, the same is liable to be deducted while arriving at the amount payable to the petitioners under the provisions of Land Acquisition Act.

6. This writ petition is disposed of directing the respondents to pay the compensation to the petitioners as indicated above within a period of four months from the date of receipt of a copy of this order. No costs.

Dated: 10-08-2005. (B.Seshasayana Reddy,J)

Tnb

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